



**Agenda Item Number: 2009-6-9C**

## **BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS**

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**Meeting Date:** June 9, 2009

**Department:** Infrastructure Planning **Staff Contact:** Tom Zdunek, DCM for Public Works  
Steve Miller, IP&GR Director  
Roger Paul, Technical Services Director  
Raymond Orona, Right of Way Mgr.

**TITLE:** MCImetro Access Transmission Services LLC Franchise and Right of Way Agreement

**ACTION:** Motion to approve a Franchise Agreement between the County of Bernalillo and MCImetro Access Transmission Services LLC.

### **SUMMARY:**

MCImetro requests access to County right of way for the purpose of providing telecommunication services throughout the County of Bernalillo. Pursuant to state statute 62-1-3, the County may grant such an agreement. The County and MCImetro agree that the terms of compensation will be a percentage of annual gross revenues. Bernalillo County may optionally derive specific benefit of exclusive use for future network expansion projects upon request. The public is best served in deriving benefit from the development of diversified utility services.

This Agreement will grant MCImetro use of County rights-of-ways in exchange for an annual fee of 3% of annual gross revenue from these services. While there are no current hookups, service and corresponding revenues are expected to increase over time according to serviceability area expansion within the unincorporated area. Public Works Technical Services will monitor, facilitate, process, and authorize placement requests from MCImetro.

### **ATTACHMENTS:**

1. Franchise Agreement
2. State Statute 62-1-3

### **FISCAL IMPACT**

No additional fiscal impact – Agenda item requests approval of the Franchise and Right of Way Agreement between the County of Bernalillo and MCImetro Access Transmission Services LLC. Public Works Technical Services will monitor, facilitate, process, and authorize placement requests from MCImetro, and as such, revenues, equal to 3% of MCImetro annual gross revenue, and oversight expenditures will be budgeted in the Public Works, Technical Services Department's operating budget. The SAP Fund Centers are: 550101 – 421102 (Revenues – Franchise Permit Fees) and 550101 – 521050 (Expenditures – Contractual Services).

# STAFF ANALYSIS SUMMARY

## COUNTY MANAGER

See summary. I recommend Board approval. 5/25/2009

## DEPUTY COUNTY MANAGER

I have reviewed the proposed agreement with MCImetro in conjunction with Right of Way and Legal staff and recommend its approval. TZ 5/27/09

## LEGAL

Approved as to form. PFT 5/28/2009

## FINANCE

### Budget

Approval would allow the County to enter into a Franchise Agreement with MCImetro Access Transmission Services LLC. The cost of any oversight expenditures have been budgeted within the department Contractual Services (521050) line item and in addition, the agreement is expected to generate 3% of MCImetro annual gross revenue. The FY10 revenues will be monitored to determine if adjustments to the budget are necessary. Stephanie Manzanares, Financial Services Administrator II, 5/15/09

### Purchasing

Procurement is exempt from the code. No comment required. Phillip Lee, Purchasing Administrator, 5/27/09

### Contracts

Contract Control Number 2009-0322 issued contingent upon Bernalillo County Commission approval. Phillip Lee, Purchasing Administrator, 5/27/09

### Risk Management

MCImetro hereby agrees to hold harmless, indemnify and defend the County, its officers, agents, and employees from and against all liability, suits, actions, claims, damages, reasonable attorney's fees and costs arising out of or resulting from MCImetro's and/or any of its subcontractor's employees', agents, or officers' conduct, performance, acts, errors or omissions relating in any manner whatsoever to this Agreement. David A. Baca, Risk Management Director. 5/27/09